

ORDER NO. 1918

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman; and
Mark Acton

Competitive Product Prices
Priority Mail
Priority Mail Contract 73

Docket No. MC2014-11

Competitive Product Prices
Priority Mail Contract 73 (MC2014-11)
Negotiated Service Agreement

Docket No. CP2014-15

NOTICE AND ORDER CONCERNING THE ADDITION OF
PRIORITY MAIL CONTRACT 73 TO THE COMPETITIVE PRODUCT LIST

(Issued December 20, 2013)

I. INTRODUCTION

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a request and associated supporting information to add Priority Mail Contract 73 to the competitive product list.¹ The Postal Service asserts that Priority Mail Contract 73 is a competitive product “not of general applicability” within the meaning of

¹ Request of the United States Postal Service to Add Priority Mail Contract 73 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors’ Decision, Contract, and Supporting Data, December 19, 2013 (Request).

39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2014-11.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2014-15.

Request. To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors’ Decision No. 11-6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs and increase contribution toward the requisite 5.5 percent of the Postal Service’s total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective on “January 10, 2014, after the Commission issues all necessary regulatory approval.” *Id.* at 3. The contract will expire two years from the effective date unless, among other things, either party terminates the agreement upon 90 days’ written notice to the other party or the contract is renewed by mutual written agreement. *Id.* The

contract also allows two 90-day extensions of the agreement if the preparation of a successor agreement is active and the Commission is notified within at least seven days of the contract's expiration date. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a).²

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the Governors' Decision, contract, customer-identifying information, and related financial information should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. NOTICE OF FILINGS

The Commission establishes Docket Nos. MC2014-11 and CP2014-15 to consider the Request pertaining to the proposed Priority Mail Contract 73 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than December 30, 2013. The public portions of these filings can be accessed via the Commission's website (<http://www.prc.gov>).

The Commission appoints Manon A. Boudreault to serve as Public Representative in these dockets.

² Although the Request appears to state that the certification only pertains to paragraphs (1) and (3) of 39 U.S.C. 3633(a), the certification itself contains an assertion that the prices are in compliance with 39 U.S.C. 3633(a)(1), (2), and (3). See Request at 2; Attachment E.

III. REQUEST FOR SUPPLEMENTAL INFORMATION

Section I.F. of the contract provides that the contract “will be measured and adjusted quarterly.” Request, Attachment B at 2. The first contract quarter begins on January 1. *Id.* Section I.H.2. of the contract appears to provide for an “annual” price adjustment “following the First Year End Date.” *Id.* at 3. In section I.H.1., the First Year End Date is defined as February 1, 2015. *Id.* at 2. The Postal Service is requested to (1) specify whether contract prices will be adjusted on a quarterly basis or an annual basis; (2) provide the date(s) on which the contract prices will be adjusted; and (3) provide a written amendment to the contract, if necessary. The Postal Service response is due no later than December 27, 2013.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket Nos. MC2014-11 and CP2014-15 to consider the matters raised in each docket.
2. Pursuant to 39 U.S.C. 505, Manon A. Boudreault is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. The response to the request for supplemental information is due no later than December 27, 2013.
4. Comments by interested persons in these proceedings are due no later than December 30, 2013.

5. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Ruth Ann Abrams
Acting Secretary